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Counsel for Defendant APPLE GATE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

APPLE GATE,

Defendant.

No. CR-06-0173 JCS

**DEFENDANT'S MOTION FOR
APPOINTMENT OF OPINION
COUNSEL**

November 7, 2006th at 9:30 a.m.

Defendant Apple Gate hereby moves this Court for the appointment of CJA counsel to offer Mr. Gate a second professional opinion on his case. This request is made in connection with a letter received from Mr. Gate by the Clerk of the Court on October 23, 2006. A copy of the letter is attached as Exhibit A.

The CJA coordinator can make opinion counsel available on Tuesday, November 7, 2006 if this Court agrees that an appointment of opinion counsel is warranted. Sentencing in this matter is currently set for November 17, 2006 at 10:30 a.m. Appointment of opinion counsel on November 7, 2006 will allow sufficient time for opinion counsel to learn the case, consult with Mr. Gate, and advise Mr. Gate as to the best course of action prior to the November 7, 2006 sentencing date.

Given the representations made in the letter, Mr. Gate respectfully submits, by and

1 through undersigned counsel, that consultations with the Federal Public Defender's Office, Mr.
 2 Gate's current counsel, will not adequately address the concerns expressed in Mr. Gate's letter.
 3 For this reason, counsel for Mr. Gate respectfully requests this Court to find that appointment
 4 of CJA counsel to render a second opinion to Mr. Gate is warranted.

5 Respectfully submitted,

6 BARRY J. PORTMAN
 7 Federal Public Defender

8 /S/

9 ELIZABETH M. FALK
 10 Assistant Federal Public Defender

11 ~~[PROPOSED]~~ ORDER
 12

13 For the reasons stated herein, this Court hereby finds that appointment of CJA
 14 counsel for defendant Apple Gate is warranted for the purpose of providing additional
 15 legal advice to Mr. Gate about his guilty plea in the aforementioned case. As Mr. Gate is
 16 currently represented by the Federal Public Defender's Office and has demonstrated that
 17 he does not have sufficient funds to pay for a lawyer, appointment of a member of the
 18 Criminal Justice Act panel is hereby ORDERED. Mr. Gate is hereby ORDERED to
 19 appear before Magistrate Judge Chen on November 7, 2006 at 9:30 a.m. for appointment
 20 of opinion counsel. The Federal Public Defender's Office, Office of the CJA Panel
 21 Coordinator is hereby ORDERED to obtain representation for Mr. Gate, and to inform
 22 CJA counsel that he or she must appear on November 7, 2006 at 9:30 a.m. before
 23 Magistrate Judge Chen.

24
 25 Dated: 11/01/06
 26 _____

